

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHARLES A. O'CONNOR,
CHRISTINA O'CONNOR, CHRISTOPHER A.
DAIDONE, and DONALD EADS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

UNPUBLISHED
February 24, 2005

v

CATHY L. EADS,

Respondent-Appellant,

No. 255363
Wayne Circuit Court
Family Division
LC No. 90-286414

and

CHRISTOPHER SMITH,

Respondent.

Before: Talbot, P.J., and Griffin and Wilder, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children, Christina and Donald, under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j).¹ We affirm.

Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights, unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision is reviewed for clear error. *Id.* at 356-357. A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re*

¹ The trial court did not terminate respondent's parental rights over Charles and Christopher, but instead granted joint legal and sole physical custody of the boys to their father.

Terry, 240 Mich App 14, 22; 610 NW2d 563 (2000). To be clearly erroneous, a decision must be more than maybe or probably wrong. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). In applying the clearly erroneous standard, this Court should recognize the special opportunity the trial court has to assess the credibility of the witnesses. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

In terminating respondent's parental rights to Christina, the trial court relied upon §§ 19b(3)(a)(ii), (c)(i), (g), and (j). In terminating respondent's parental rights to Donald, the trial court relied upon §§19b(3)(c)(i), (g), and (j). On review of the record, we conclude that the trial court's termination of respondent's parental rights to Christina under §§ 19b(3)(c)(i), (g) and (j) was not clearly erroneous. In exercising jurisdiction over Christina, the trial court found that Christina had suffered injuries, caused either because of respondent's neglect or because respondent was physically abusive. Although respondent claims that Christina recanted her allegations that respondent had abused her, respondent did not appeal the trial court's findings. After Christina was taken into the custody of the trial court, respondent failed to substantially comply with her parent-agency agreement. The record establishes that respondent lacked improved parenting skills, expressed anger toward Christina at supervised visits, and at times indicated an unwillingness to even have visitation with Christina. After five years within the trial court's jurisdiction, the trial court did not clearly err when it determined that Christina once again would not receive proper care, and was reasonably likely to again be subjected to abuse, if she were returned to respondent's home.

The trial court also did not err in terminating respondent's parental rights to Donald under §§ 19b(3)(c)(i), (g) and (j). Under the doctrine of anticipatory neglect, how a parent treats one child is probative, though not conclusive or determinative, of how that parent would treat another child. *In re Kantola*, 139 Mich App 23, 28; 361 NW2d 20 (1984); *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482(1973). In terminating respondent's parental rights to Donald, the trial court emphasized that respondent had a demonstrated and repeated cycle of abandoning her children, first with Charles and Christopher and then with Christina, where respondent would visit the children, but at some point in time would either refuse to plan for them or request that her parental rights be terminated. The trial court also noted respondent's hostile reaction to Christina after Christina made allegations of abuse. The trial court did not clearly err in finding that respondent's poor parenting and treatment of Charles, Christopher and Christina would, in the future, negatively affect Donald, who was only two years old at the time of the termination trial, and that terminating respondent's parental rights to Donald under each of the three cited statutory grounds was warranted.

Respondent next asserts that the trial court erred in failing to conclude that termination of her parental rights was clearly not in the children's best interests. However, despite raising this claim on appeal in her statement of issues presented, she failed to adequately argue the issue. Generally, a party may not merely announce a position and leave it to the court to discover and rationalize the basis for the claim. *In re Toler*, 193 Mich App 474, 477; 484 NW2d 672 (1992). Even if this issue is considered, the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 356-357. Thus, the trial court did not err in terminating respondent's parental rights to Christina and Donald.

Affirmed.

/s/ Michael J. Talbot
/s/ Richard Allen Griffin
/s/ Kurtis T. Wilder